

PROTEST OF CUSTOMS DECISIONS BY TRANSFEREES OF WAREHOUSED MERCHANDISE

DECEMBER 10, 1970.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. MILLS, from the Committee on Ways and Means,
submitted the following

REPORT

[To accompany H.R. 19391]

The Committee on Ways and Means, to whom was referred the bill (H.R. 19391) to amend the Tariff Act of 1930 to grant to the transferee of merchandise in bonded warehouse the right to administrative review of customs decisions, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE

The purpose of H.R. 19391 is to amend section 557(b) of the Tariff Act of 1930 in order to grant to the transferee of merchandise in bonded warehouse the right to administrative and judicial review of customs decisions.

GENERAL STATEMENT

H.R. 19391 would restore to the transferee of merchandise in bonded warehouse, after withdrawal of the goods and liquidation of the entry, the same right to file a protest pursuant to section 514 of the Tariff Act of 1930, as amended, as was possessed by the importer of the merchandise.

As a result of customs court decisions with regard to the notice of liquidation to transferees and in consideration of the cost of separately notifying the transferee of merchandise of the liquidation of import entries, the Treasury Department recommended the withdrawal of the right of the transferee of merchandise in bonded warehouse to file protests under section 514. That recommendation was adopted by the Congress in the Customs Simplification Act of 1953.

The Treasury Department has informed the committee, in submitting the proposal contained in H.R. 19391, that it is now recognized that the denial of this protest right to transferees may result in inequities. Under existing law, the transferee has the legal obligation to pay additional duties and must put up a bond to insure payment of such duties. In the absence of this legislation, however, the transferee has no direct right to secure administrative and judicial review of customs decisions affecting his merchandise, except in extremely limited and unusual circumstances. The importer of record, who has the right to file protests on behalf of the transferee, may be unable or unwilling to do so. Thus, without an independent right to file protests, transferees in such situations are without a remedy.

Your committee believes that the independent right of a transferee of merchandise in a bonded warehouse to file protest to secure administrative and judicial review of customs decisions affecting his merchandise should be restored.

The bill provides that the notice of liquidation shall be given to the transferee in the form and manner prescribed by the Secretary of the Treasury. Your committee is informed that if such notice cannot be handled satisfactorily in the daily bulletin of liquidations, then adequate and timely notice of liquidation would be mailed to the transferee.

The act would become effective with respect to articles entered for warehousing on or after the date of enactment.

Your committee is unanimous in favorably reporting H.R. 19391.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, existing law in which no change is proposed is shown in roman):

SECTION 557 OF THE TARIFF ACT OF 1930

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SEC. 557. ENTRY FOR WAREHOUSE—WAREHOUSE PERIOD—DRAWBACK.

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(b) The right to withdraw any merchandise entered in accordance with subsection (a) of this section for the purposes specified in such subsection may be transferred upon compliance with regulations prescribed by the Secretary of the Treasury and upon the filing by the transferee of a bond in such amount and containing such conditions as the Secretary of the Treasury shall prescribe. The bond shall include an obligation to pay, with respect to the merchandise the subject of the transfer, all unpaid regular, increased, and additional duties, all unpaid taxes imposed upon or by reason of importation, and all unpaid charges and exactions. Such transfers shall be irrevocable, shall relieve the transferor from all customs liability with respect to obligations assumed by the transferee under the bond herein provided

for, and shall confer upon the transferee all rights to the privileges provided for in this section and in sections 562 and 563 of this Act which were vested in the transferor prior to the transfer. [The transferee shall also have the right to receive all lawful refunds of moneys paid by him to the United States with respect to the merchandise the subject of the transfer, but shall have no right to file any protest under section 514 of this Act except as to decisions with respect to his rights under subsection (c) of this section or under section 562 or 563 of this Act or against a decision as to the rate or amount of duty, tax, charge, or exaction when such rate or amount has been changed by statute or proclamation on or after the date of the transfer. The transferee shall have no right to file an appeal for reappraisal under section 501 of this Act, except when subsequent to the transfer and before a withdrawal for consumption has been deposited for the merchandise, it has been changed in condition pursuant to the provisions of section 562 or 311 of this Act in a manner which necessitates that it be appraised in its changed condition in order that the correct amount of duties may be assessed. No new or separate liquidation, reliquidation, or determination shall be made in the name of, or on behalf of, a transferee, except with regard to any matter which may arise under subsection (c) of this section or section 562 or 563 of this Act when the transferee has invoked either of these sections, and in the case of a statutory or proclaimed change in the rate of duty, tax, charge, or exaction applicable to the merchandise the subject of the transfer and effective on or after the date of the transfer.] *The transferee shall also have the right to receive all lawful refunds of money paid by him to the United States with respect to the merchandise the subject of the transfer, and shall have the right to file a protest under section 514 of this Act to the same extent that such right would have been available to the transferor. Notice of liquidation shall be given to the transferee in the form and manner prescribed by the Secretary of the Treasury. A transferee may further transfer the right to withdraw merchandise, subject to the provisions of this subsection relating to original transfers.*

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